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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,050	06/21/2001	Daniel Guy Pomerleau	PAT 362-2	3639

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EXAMINER

ST CYR, DANIEL

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 01/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/885,050

Applicant(s)

POMERLEAU ET AL.

Examiner

Daniel St.Cyr

Art Unit

2876

-- Th MAILING DATE of this communication appears on the cov r sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Receipt is acknowledged of the amendment filed 11/18/02.

#### *Specification*

2. The abstract of the disclosure is objected to because on line "cheque" should be changed to --check--. Correction is required.

#### *Claim Objections*

3. Claims 2-7 and 9-13 are objected to because of the following informalities:

Claims 2-7 10-12, line "A" should be change to -- The --.

Claims 3, 9, and 13, "cheque" should be changed to --check--.

Claim 13, line 1, "The" should be changed to --A--.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Trotta, Jr., US patent No. 5,595,264.

Trotta, Jr. discloses a system and method for automated shopping comprising: a portable scanner 14 for scanning information relating to financial transaction; a portable point of sale terminal (POST) 23 in operative with the portable terminal scanner 14 for receiving the information, the POST also for reporting information to a transaction approval service and for

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receiving transaction approval or denial from the transaction approval service, wherein the portable scanner or the POST formats the information for reporting to the transaction terminal (see figure 4; col. 4, line 30 +).

Re claim 2, wherein the scanner is in operative communication with the POST via a wireless link (see figure 4).

Re claim 3, wherein the scanner includes a processor 25 operatively connected to a reader 23 for processing scanned information; an interface operatively connected to the processor for operative communication with the POST; and wherein the processor receives digital image of the code information (see figure 4).

Re claim 6, a display 22.

Re claim 7, wherein the POST includes a card reader at the scanner station 18 (see col. 3, line 50+).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 4-5 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trotta, Jr.. The teachings of Trotta, Jr. have been discussed above.

Trotta, Jr. does not disclose or fairly suggests using a check as a means of payment. However, it is notorious old and well known in the art to use checks, such as personal checks, business checks, as means for paying for transactions. Therefore, it would have been an obvious for an artisan to modify Trotta, Jr.'s system by incorporating means for accepting checks for providing customers an alternate means for paying for their good, which would make the system more versatile and more convenient. Therefore, it would have been an obvious extension as taught by Trotta, Jr..

#### ***Response to Arguments***

9. Applicant's arguments filed 11/18/02 have been fully considered but they are not persuasive. (see remarks).

#### **REMARKS:**

In response to applicant's argument regarding the objection of "cheque", the examiner respectfully disagrees. The examiner believes that the word "cheque" is rooted in the French language. Further the evidence (Third New Webster . . .) provided by the applicant is not legible. The applicant argument is not persuasive. Refer to the rejection above.

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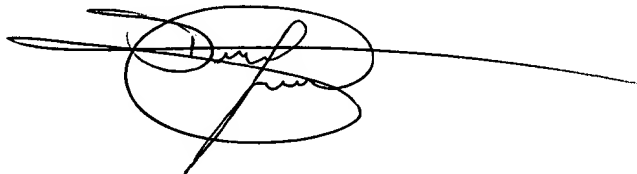
*Conclusion*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr  
Examiner  
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A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a large, loopy circular mark. A long horizontal line extends to the right from the end of the signature.

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January 23, 2003